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Fifty-first year

Letter dated 4 July 1996 from the Permanent Representative of Cuba to the United Nations addressed to the Secretary-General

I have the honour to request that the enclosed letter from Mr. Ricardo Alarcón de Quesada, head of the delegation of the Republic of Cuba to the Meeting of the Council of the International Civil Aviation Organization (ICAO) held in Montreal on 26 and 27 June 1996, addressed to Mr. Assad Kotaite, President of the ICAO Council (see annex), be circulated as an official document of the fiftieth session of the General Assembly, under agenda item 140, and of the Security Council.

(Signed) Bruno RODRÍGUEZ PARRILLA
Ambassador
Permanent Representative

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ANNEX

[Original: English and Spanish]

Letter dated 4 July 1996 from the Head of the Cuban delegation to the Meeting of the Council of the International Civil Aviation Organization, held in Montreal on 26 and 27 June 1996, addressed to the President of the Council

In the letter which I sent to you on 2 July 1996 (see A/50/990-S/1996/520, annex), I informed you of the dangerous, unauthorized and uncontrolled flight effected for several hours in the Havana flight information region (Havana FIR) by an aircraft which Miami Air Traffic Control (ATC) identified as belonging to the United States Government.

In my letter, written pursuant to paragraph 9 of the resolution adopted by the Council of the International Civil Aviation Organization (ICAO) on 27 June, I asked that appropriate measures be taken to prevent any further violations and thereby avoid the serious risks which they would create for civil aviation in the region. I also indicated that most of the civilian aircraft endangered by these United States Government flights are United States aircraft.

It is therefore disturbing to note the irresponsible and superficial way in which the United States authorities have reacted to this complaint. While on 3 July the spokesman for the Department of State described the complaint as "laughable", that same day the United States Secretary of Transportation, Mr. Federico Peña, claimed to have no information about such violations.

These statements by United States officials constitute an explicit acknowledgement of that country's failure to comply with its obligations under the Chicago Convention and an outrageous lack of respect for the safety of hundreds of passengers, most of them citizens of the United States, whose lives were endangered.

The statements by Mr. Peña are absolutely unfaithful to the truth. They are thus unacceptable and must be rejected. As pointed out in my letter of 2 July, the first step taken by the Cuban authorities in the morning of 25 June was precisely to inform the United States authorities. Can one really believe that one week later Mr. Peña had not learned of the incident? Was he also unaware of the communication which the Administrator of the Federal Aviation Administration (FAA) had received 48 hours before his frivolous comment?

In order to refresh the memory of the Secretary of Transportation allow me to review a number of previous incidents which occurred this year:

On 13 February, at 8.50 a.m., on 22 February, at 11.47 a.m. and on 3 April at 8.49 a.m., aircraft of the United States company American Airlines encountered in their path and dangerously crossed aircraft of the United States Government flying within the Havana FIR without authorization or coordination, in clear violation of ICAO norms and procedures. On these three days, other incidents which posed a danger to commercial aircraft occurred. All these

incidents were promptly brought to the attention of the United States authorities, to whom it was necessary on some occasions to send several messages, for example, four on 22 February, all relating to the dangerous situation in which the American Airlines flight had been placed.

If the United States Secretary of Transportation was not informed in a timely manner by his subordinates, if he is unconcerned about the lives of his fellow citizens, and if the spokesmen for the Department of State find both these matters laughable, these are things for which they must answer to their own people. However, such conduct can cause serious harm to international civil aviation and result in incidents which ICAO should prevent. I therefore reaffirm the necessity of stopping violations of the Convention such as those referred to in this and my previous letter.

I am enclosing a copy of the letter from the Vice-President of the Civil Aeronautics Institute of Cuba addressed to the Administrator of FAA on 1 July 1996 (see appendix).

I request that this letter and its appendix be circulated to all members of the ICAO Council.

(Signed) Ricardo ALARCÓN de QUESADA
Head of the Cuban delegation
to the ICAO Council

APPENDIX

Letter dated 1 July 1996 from the Vice-President of the Civil Aeronautics Institute of Cuba addressed to the Administrator of the Federal Aviation Administration of the United States

The purpose of this note is to bring to your attention violations of Cuban and international aviation law committed by aircraft of the United States Government in the Flight Information Region of the Republic of Cuba.

On 25 June 1996, an aircraft of the United States Government operating in the Havana Flight Information Region (Havana FIR) without having made contact with the Havana Air Traffic Control Centre (Havana ATC) endangered aviation in the region.

The competent Cuban aeronautical authorities promptly informed Miami Air Traffic Control of the flight of the aircraft and received the reply: "[it] is a United States Government aircraft operating [with] due regard".

In order to avoid a dangerous approach, the American Airlines flight (AAL 2188) had to evade the United States Government aircraft and at the request of the pilot of a Boeing 767 (flight TAI 310), en route from San Salvador to Miami, Cuban air traffic controllers had to divert that aircraft in order to separate it from the violating aircraft.

Situations such as these, which jeopardize the safety of civil aviation within the flight information region of the Republic of Cuba, have occurred approximately 7,719 times since 27 October 1960, when United States Government aircraft have operated in a similar manner, thereby establishing the pattern in these actions.

The Government has proof of these violations of our aviation laws and of the regulations of the International Civil Aviation Organization (ICAO). Several of these violations have been recognized by specialized publications such as Aviation Week and Space Technology, which in its 26 September 1994 issue referred to a flight having such characteristics by a United States RC-135 "Rivet Joint" military aircraft.

In our contacts with the aviation authorities of the agency which you direct, we have, on several occasions, expressed our concern over these situations, but no solution to this important issue has been found.

As proof of what happened on 25 June 1996, I am enclosing with this letter a record of the procedures followed by Havana Air Traffic Control, which I am also transmitting to the President of ICAO.

In view of this new incident, we wish to emphasize the risk created by such unauthorized flights of an air disaster in the region.

We expect that appropriate measures will be taken to prevent any further violations of international aviation laws and the aviation laws of the Republic of Cuba.

(Signed) Argimiro OJEDA VIVES
Vice-President